

2 Ct
Papa.

47
6/10/02
vff

FILED
HARRISBURG, PA

JUN 07 2002

MARY E. D'ANUREA, CLERK
Per
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

PHAN HUE,

Plaintiff,

v.

JAMES UPDIKE, et al.,

Defendants.

Civil No. 01-CV-1064

(Judge Kane)

(Magistrate Judge Smyser)

**DEFENDANTS' PETITION FOR ALLOWANCE TO FILE A
NUNC PRO TUNC STATEMENT OF FACTS AND EXHIBITS IN
SUPPORT OF SUMMARY JUDGMENT MOTION**

AND NOW, comes Corrections Defendants, by and through their counsel,
and petition the Court for permission to file *nunc pro tunc* statement of facts and
supporting exhibits in support of their Motion for Summary Judgment and in
support thereof aver as follows:

1. I am counsel originally assigned to this matter and have been with the
office only since January 2002.
2. I filed, this, my first Motion for Summary Judgment on May 30, 2002.

3. Due to a misunderstanding on my part, I filed only the motion with anticipation of filing the brief and exhibits within 10 days.
4. I filed the Brief and Exhibits on June 6, 2002.
5. I realize now that the Summary Judgment Motion should have been filed with my statement of facts and accompanying documentation. In accordance with Fed. Rule of Civil Procedure 56 and LR 56.1.
6. I apologize to the court for this error and for any delay or any inconvenience it may have caused.

WHEREFORE, counsel for Corrections Defendant's requests Your Honorable Court to allow Defendants to file *nunc pro tunc*, their Statement of Facts and accompanying exhibits pursuant to Federal Rule of Civil Procedure 56, LR 56.1.

Respectfully submitted,
Department of Corrections,

By: Marsha M. Davis
Marsha M. Davis
Assistant Counsel
Attorney I.D. No. 28018
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
717-731-0444

Dated: June 7, 2002

